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CONTRA COSTA
WATER DISTRICT

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September 23, 1999

CALFED Bay-Delta Program
1416 Ninth Street, Suite 1155
Sacramento, CA 95814
Attention: Rick Breitenbach

Re: CCWD Comments on CALFED June 1999 Draft Programmatic EIS/EIR

Dear Mr. Breitenbach:

Contra Costa Water District (CCWD) appreciates the opportunity to review the revised Draft Programmatic Environmental Impact Statement / Environmental Impact Report (DPEIS/EIR) released by the CALFED Bay-Delta Program on June 25, 1999. CCWD also commented in detail on the March 16, 1998 Draft PEIS/EIR (Letter, Walter J. Bishop to Lester Snow, dated June 30, 1998). CCWD requests that those earlier comments be included here by reference and responded to by CALFED in the Final PEIS/EIR.

CCWD serves a population of over 400,000 in Central and Eastern Contra Costa County, one of the fastest growing urban areas in California. CCWD has a contract with the U.S. Bureau of Reclamation (Reclamation) for 195,000 acre-feet per year from the Central Valley Project (CVP). CCWD is the CVP's largest Municipal and Industrial (M&I) contractor. Currently, the water demand in CCWD is about 125,000 acre-feet annually. The demand for water in CCWD's service area has declined almost 15 per cent since 1990 despite substantial population growth, and is currently about 25,000 acre-feet annually below the level it would be at were the 1990 level of demands simply scaled by population growth. This decline in water use is due to a substantial commitment by CCWD and its customers to conservation and to the lingering effects of the 1987-1992 drought, during which CCWD suffered large cuts in its CVP water supply.

CCWD is entirely dependent upon the Sacramento-San Joaquin River Delta (Delta) for its water supply. CCWD has historically played a key role in defending the Delta, especially with regard to improving Delta water quality and the Delta environment. CCWD's recently completed Los Vaqueros Project, a $450-million water quality project that is entirely funded by CCWD's ratepayers, is a strong example of CCWD's commitment to the Delta. The Los Vaqueros Project was designed to improve the water quality of CCWD's customers while at the same time enhancing the Delta environment. The Los Vaqueros Project provides a net benefit to the Delta and

Delta fisheries, and will continue to do so as CCWD's water demands grow over the next 50 years. In fact, the Los Vaqueros Project was recently awarded the American Society of Civil Engineers' prestigious Outstanding Civil Engineering Achievement for 1999 in recognition, in part, of the environmental benefits of the project. Provision of net benefits to the Delta and to fisheries has become the standard for implementing projects affecting the Delta, and CCWD's Los Vaqueros Project has led the way. A more detailed description of CCWD's operations and facilities is included as Attachment A.

CCWD believes it is extremely important that CALFED succeed in meeting its goals and objectives, namely to restore the aquatic environment and to help resolve the many issues that are impacting the reliability and quality of water supplies for the 20,000,000 people who rely on the Delta for some or all of their water. CCWD's interests in the Bay-Delta and associated river systems are listed in Attachment B.

The District has the following major comments on the revised Draft PEIS/EIR. Additional specific comments are included in Attachments C, D, E, and F. Previous CEQA/NEPA comments by CCWD and the California Urban Agencies on previous environmental documents and proposals related to the South Delta Improvement Program are included as Attachment G. CCWD requests that these previous comments be incorporated as part of CCWD's comments on the June 1999 Draft PEIS/EIR.

Intermediate Water Quality Milestones

CCWD is pleased that CALFED has adopted recommendations by the District and other members of the California Urban Water Agencies (CUWA) that CALFED adopt long-term water quality milestones of 50 µg/l bromide and 3 mg/L total organic carbon (TOC) or an equivalent level of public health protection through a cost-effective combination of conveyance changes, alternative source water, source control, and treatment. These milestones, included in the Revised Draft PEIS/EIR, will ensure that urban agencies can meet future U.S. Environmental Protection Act standards for disinfection by-products and pathogens.

However, CALFED must also adopt intermediate milestones for drinking water parameters such as bromide and TOC. Intermediate milestones are needed to indicate whether CALFED has achieved its stated goals of continuous improvement in water quality during Stage I (the first 7 years) and to ensure that urban agencies treating Delta water can comply with drinking water requirements using cost-effective feasible technology. CCWD recommends that these intermediate water quality milestones be based on those recommended by CUWA in letter to CALFED (Byron Buck to Lester Snow, dated May 20, 1999). These were a bromide concentration < 300 µg/L and TOC concentration < 4.0 mg/L by 2002 and bromide < 100-150 µg/L and TOC < 3.5 mg/L by 2005. These intermediate milestones would be quarterly (3-month) averages.

Water Quality Actions

The PEIS/EIR outlines a variety of actions to improve source water quality, including two drainage management projects to improve water quality at CCWD's intakes. These are the Veale Tract project (agricultural discharge into Rock Slough near the intake to the Contra Costa Canal) and Byron Tract project (agricultural drainage by Reclamation District 800 near the Old River intake). These two projects are included in CALFED's South Delta bundle of actions and are intended as mitigation for potential water quality impacts of the proposed south Delta agricultural barriers and proposal for joint points of diversion for the State Water Project and Central Valley Project from the south Delta.

CCWD strongly recommends that these drainage management and source water quality projects go forward as they will result in direct and significant improvements to CCWD's the quality and reliability of CCWD's water supply. CCWD is already devoting staff resources to assist CALFED in developing these early-implementation projects and has begun meeting with CALFED and stakeholders to develop alternatives for preliminary screening.

Delta Drinking Water Council

CCWD strongly supports the proposal to establish a Delta Drinking Water Council to advise CALFED on changes needed in the CALFED Program to achieve drinking water quality objectives, and review work by independent expert panels related to drinking water issues. The Drinking Water Council is also tasked with preparing findings at intermediate stages during Stage 1 (2003 and 2007) assessing trends in Delta water quality, trends in treatment technology and regulation and recent findings and summary status of human health effects of disinfection byproducts.

The Delta Drinking Water Council should include representatives from agencies responsible for regulating drinking water, urban drinking water agencies that treat and deliver Delta water supplies and regions potentially physically affected by facility decisions recommended by the Council. As urban drinking water agencies are responsible for delivering safe drinking water that meets all state and federal regulations, they should have a proportionally greater representation on the Delta Drinking Water Council to ensure meaningful representation.

The Council is proposed by CALFED as a BDAC subcommittee. CCWD believes that the Council must have direct access and reporting to the CALFED Water Policy Group as well as BDAC.

New Storage

CCWD believes that a combination of new groundwater and surface water storage is necessary to capture water during high runoff periods and improve Delta water quality. New storage is also

necessary to improve water supply reliability. Conservation in normal and wet years will not help meet dry year water supply needs unless there is somewhere to store the conserved water. Conservation will not help improve water quality unless the water can be stored for use when water quality is poor. High winter flows cannot be captured and stored in sufficient quantity as groundwater because of the slow rate at which water can be injected into groundwater aquifers. New surface storage will facilitate the transfer of water to underground storage.

Additional storage immediately adjacent to or south of the Delta has the greatest potential for producing improvements in delivered water quality because it would allow the capture of high quality water during flood events. This water could then be later delivered to urban agencies without being affected by limitations on export pumping.

Expanded Los Vaqueros Storage (Phase II Report, Page 91)

The Draft PEIS/EIR states that CALFED is currently considering 12 new surface storage projects. Three involve enlargement of existing storage reservoirs: Shasta (increase of 6.5 feet to yield an additional 290,000 acre-feet), Friant Dam (an additional 720,000 acre-feet), and Los Vaqueros Reservoir (up to an additional 965,000 acre-feet). As discussed in CCWD's July 28, 1998 letter to CALFED (Walter J. Bishop to Lester Snow), CCWD has developed as set of principles regarding CALFED's consideration of an expanded Los Vaqueros reservoir. Before CCWD could even consider any proposal for use by CALFED of CCWD's Los Vaqueros or Kellogg watershed sites, CALFED must ensure and assure that:

1. the project will improve water quality and reliability for CCWD
2. the project will enhance the Delta environment
3. the project will protect and enhance the fisheries and terrestrial species benefits provided by CCWD's existing Los Vaqueros Project
4. the project will preserve and increase the recreational opportunities of the existing Los Vaqueros Project
5. CCWD will retain control of the watershed and operation of the reservoir
6. the project will protect and reimburse the financial investment made by the CCWD customers who financed the existing $450 million Los Vaqueros Project
7. the project has the full support of the residents of Contra Costa County

CCWD and its customers have made a significant financial investment in the existing Los Vaqueros Project and the water quality, environmental, reliability and recreational benefits that it provides. Any proposed use of the Los Vaqueros or Kellogg watershed by CALFED must improve and enhance those benefits while reimbursing the District and its customers for that investment. Such a proposal must have the full support of the people of Contra Costa County.

CCWD requests that CALFED continue to keep CCWD fully informed regarding its screening of offstream surface storage projects and that CALFED ensure these principles are fully addressed

should an expanded Los Vaqueros reservoir continue to be carried forward as an option to the next stage in development of the CALFED Bay-Delta Program.

Please note that the attached principles are a prerequisite for CCWD's consideration of an expanded Los Vaqueros reservoir in the context of an overall CALFED solution. The full CALFED package will have to be acceptable to the District in addition to any Los Vaqueros proposal. CALFED should incorporate CCWD's principles regarding the Los Vaqueros site into its analysis and selection of new storage alternatives, and fully disclose if inclusion of those principles causes any difference in the environmental impacts of the CALFED Program.

In-Delta Storage

CCWD continues to have serious concerns regarding CALFED's proposal to store water on Delta islands consisting of peat soils. CALFED should not consider in-Delta projects that would increase disinfectant by-product precursors (total organic carbon, and salinity) and other contaminants in Delta channels, the source of drinking water for over 20 million Californians. CALFED should analyze instead other storage sites in or immediately adjacent to the Delta that have mineral soils and are close to the south Delta pumps. This will eliminate some of the concerns over increases in total organic carbon and eliminate the need to discharge stored water back into the Delta and increase the risk of entraining fish when it is rediverted at the export pumps. The CALFED Final PEIS/EIR must fully disclose the impacts from storing water over peat soils on urban drinking water quality.

Water Supplies

The role of CALFED is not to solve all of the future water supply needs for California. CALFED should focus on improving water supply reliability for water users. CCWD believes the first steps should be directed towards improvements in reliability for current and 2020 demands rather than specific targets for increased supplies.

Environmental Water Account

The CALFED PEIS/EIR includes a proposal to establish an Environmental Water Account (EWA) to enable more efficient use of water for environmental purposes and decrease the conflict in uses of Bay-Delta water supplies. The EWA will allow more flexible operations to provide additional fisheries benefits when most needed and will allow modifications of operational limitations when there will be no fisheries impacts. CCWD believes that the EWA should be implemented as soon as possible to allow these benefits to be realized.

However, the EWA, like all CALFED actions and alternatives, must designed in such a way that any new water is allocated consistent with CALFED's water supply and water quality, as well as

environmental objectives. If not properly operated, the EWA could cause significant degradation of water quality in the Delta, particularly at the District's intakes and in the south Delta.

The CALFED Final PEIS/EIR must fully analyze and disclose the water quality impacts of the EWA and other water management alternatives and develop operational rules that are designed to also improve water quality. CCWD will continue to provide technical assistance to CALFED in developing these operational rules.

Clearly Defined Decision Process for Additional Facilities

As discussed in CCWD's comments to CALFED on the March 16, 1998 Draft PEIS/EIR (Walter J. Bishop to Lester Snow, July 1, 1998), the need for additional facilities, such as the isolated facility described in CALFED's alternative 3, must be compelling and based on water quality and/or ecosystem needs. Additional data must be collected and detailed analyses must be completed before the need for and size of an isolated component of a dual facility can be established conclusively.

The June 1999 revised Draft PEIS/EIR outlines a process for determining the conditions under which any additional conveyance facilities and/or other water management actions would be considered. These include an evaluation of how urban water agencies can best provide a level of public health protection equivalent to Delta source water quality of 50 μg/L bromide and 3 mg/L TOC and an evaluation based on independent expert panels' reports on CALFED's progress toward these measurable water quality goals and CALFED's progress toward ecosystem restoration objectives, with particular emphasis on fisheries recovery.

However, CALFED must also develop a more clearly defined process for determining the need for additional facilities, e.g., how soon should planning and feasibility studies for additional facilities begin. CALFED must also immediately begin collection and analysis of water quality and biological data so that these data can be used to evaluate CALFED's progress toward meeting its goals and can be used in any decisions regarding the need, sizing, and timing of an isolated facility or any other additional facilities.

Proposal for Hood Diversion Test Facility

CALFED should also analyze an in-Delta alternative that diverts high quality water through a screened intake in the Central Delta for both in-Delta and export uses. CCWD is not convinced that a Hood Diversion Test Facility will provide significant water quality benefits in the central and south of the Delta. The Test Facility may prove to be a waste of money. The Hood facility will be located along the path of endangered Sacramento salmon migration and could also negatively impact Mokelumne salmon because it discharges into the Mokelumne River system. A southern intake to Clifton Court that extends up to the San Joaquin River near Medford Island

or MacDonald Island may provide better water quality and better fisheries benefits than the Hood Test Facility.

CALFED should only consider moving forward with one test diversion facility and only after Stage 1 if it is shown that other CALFED actions have failed to meet the required water quality and fisheries and ecosystem restoration objectives.

Assurances Package

CALFED still needs to develop a well-defined detailed assurances package regarding operations of new facilities and protection of existing rights and beneficial uses. CCWD is particularly concerned that CALFED's discussion of compliance with applicable laws, policies, and plans, and regulatory framework (Chapter 8 in the revised Draft PEIS/EIR) does not include any discussion of California's area of origin statutes (e.g., Water Code sections 11460 and 10505 et seq.) that give upstream tributaries water rights seniority over export water users. The discussion of the Delta Protection Act of 1959 (California Water Code sections 12200 et seq.) in Chapter 8 also seriously misinterprets the 1959 Act as requiring adequate water supplies for exporters not just in-Delta water users. The 1959 Act was clearly intended to protect Delta water users from the impacts of State Water Project and Central Valley Project exports and clearly limits any export of water from the Delta that is needed to ensure salinity control and an adequate water supply for users of water in the Sacramento-San Joaquin Delta (Section 12204).

If CALFED fails to understand and fails to fully address existing assurances developed to protect in-Delta water users from the effects of the State Water Project, CALFED will not be able to develop an acceptable assurances package for new CALFED facilities and actions.

As discussed in CCWD's June 30, 1998 comments on March 1998 Draft PEIS/EIR, the CALFED Final PEIS/EIR must include an assurance package that incorporates the following assurances for CCWD:

- Reconfirmation of the substantial provisions of the 1959 Delta Protection Act to ensure an adequate water supply and salinity control for Delta water users that are in or immediately adjacent to the Delta and conveniently served from the Delta.
- Guarantees that only water truly surplus to the needs of Delta water users and areas of origin can and will be exported.
- Adoption and implementation of additional water quality standards in the South Delta for fish and wildlife, municipal and industrial needs, and agriculture as well as more stringent municipal and industrial water quality standards at Rock Slough.
- Guarantees that CCWD's ability to operate its three Delta diversions and its Los Vaqueros reservoir will not be impacted by any additional restrictions or requirements, including biological or contractual requirements.

- Assurance that CCWD's annual contract for 195,000 acre-feet of water with the USBR will not be impacted by any process that is not currently in place, (e.g., no new additional requirements beyond the CVPIA and existing water law).
- Assurance that the CCWD will be able to fully participate in water transfer opportunities and will not be prejudiced directly or indirectly by its connection or lack of a connection to any new facilities.
- Assurance that any CALFED solution will not impact the recreational opportunities of the Delta, including quality of the Delta and access to recreational areas.

Funding and Cost-Sharing Package

The Revised Draft PEIS/EIR only discusses the Finance Plan in general terms and gives no indication of how costs will be allocated. CALFED must develop a detailed draft Finance Plan and make it available for public review and comment consistent with CEQA and NEPA well in advance of release of the Final PEIS/EIR. CALFED must not consider applying water user fees unless there are clearly defined and quantified benefits from the program, consistent with a "beneficiary pays" principle.

Program Governance and Oversight Structure

The governance and decision-making structure for implementation of the CALFED Preferred Alternative is key to successful program implementation. CALFED is still in the process of developing a long-term governance plan for the CALFED Bay Delta Program and a decision on the long-term governance structure will be made by the time of the Final Programmatic EIS/EIR. It will also take time to put a long-term governance structure in place because of the time required to enact the legislation required to make changes to existing laws and authorities. In the interim CALFED proposes continuation of essentially the current structure being used for the program planning.

Key principles proposed by CALFED are: stakeholder involvement in decision-making; involvement by elected officials; no impairment of existing agency regulatory authority; efficient decision making; durability of agreements/decisions and accountability for agreements/ decisions. The Governance Structure will fulfill oversight functions, program coordination and management functions, and direct implementation functions. Entities such as the Ecosystem Roundtable and Delta Drinking Water Council would advise CALFED on specific program objectives.

Ecosystem Restoration Program

CCWD supports the goal of the Ecosystem Restoration Program (ERP) "*to improve and increase aquatic and terrestrial habitats and improve ecological functions in the Bay-Delta system to support sustainable populations of diverse and valuable plant and animal species*" (Phase 2-7 of

the Draft PEIS/EIR). However, CALFED must define clear, specific goals for species conservation and/or actions needed to promote recovery of listed and sensitive species. CALFED must also ensure that the ERP is scientifically rigorous and includes an on-going, intensive scientific review process incorporating both local peer review and independent scientific review. The CALFED ERP must also addresses flow and non-flow factors including: habitat, harvest management, fish passage and direct mortality, toxic and pollutant reductions, and introduced and invasive species. The impacts of these non-flow factors on fish populations must be analyzed and fully disclosed in the Final PEIS/EIR and actions developed to combat these factors.

The CALFED ERP must not dedicate or acquire any additional flows without providing adequate scientific justification in the Final PEIS/EIR or prior to any subsequent decisions on flow dedication or acquisition. Although temporary flow increases may be needed to conduct scientific research, CALFED must link any dedication and acquisition of environmental water flows to an on-going intensive scientific review process. The Draft CALFED PEIS/EIR has developed a set of operating criteria (Criterion A, Page A-19) that sets minimum values of QWEST in the western Delta based on an assumed correlation between salmon smolt survival and QWEST. Recent testimony under oath by Dr. Marty Kjelson (USFWS) on March 23, 1999 in Phase 6 of the current State Water Resources Control Board Bay-Delta water rights hearing (Record Transcript at page 12108) confirmed that there is no statistically significant correlation between Sacramento salmon smolt survival and QWEST (r-squared value of only 0.01). CALFED must provide the scientific data supporting its use of QWEST as a fish protection measure (see, e.g., Page 5.2-5) and other ERP assumptions and fully disclose these data, and their implications regarding efficient use of environmental water, in the Final PEIS/EIR.

CALFED must also develop an efficient and effective monitoring and research program to provide the scientific basis and support for ERP adaptive management decisions, including for example, a comprehensive, real-time monitoring program. CALFED must ensure that environmental water use is managed efficiently based on sound scientific justification and operated to maximize benefits for fish, water quality and water supply reliability.

Please contact me at (925) 688-8187 should you have any questions regarding the District's comments on the CALFED revised Draft PEIS/EIR.

Sincerely,

Richard A. Denton
Water Resources Manager

Attachments (continued on next page)

A. CCWD Operations and Facilities
B. CCWD Interests in the Bay-Delta and Associated River Systems
C. CCWD's Specific Comments on the June 1999 Programmatic EIS/EIR
D. CCWD Comments on the June 1999 Water Quality Plan Technical Appendix
E. CCWD Comments on the June 1999 Phase II Report
F. CCWD Comments on the June 1999 Water Use Efficiency Technical Appendix
G. Previous CCWD Comment Letters on South Delta Program
    1. CCWD Comments on Interim South Delta Program Draft EIR/EIS USACOE Public Notice 199001376, Walter J. Bishop (CCWD) to Stephen Roberts (DWR), Alan Candlish (USBR) and Dorothy Klasse (US Army Corps of Engineers), dated January 31, 1997.
    2. CUWA Comments on Interim South Delta Program Draft EIR/EIS, Byron Buck (CUWA) to Stephen Roberts (DWR) and Alan Candlish (USBR), dated January 28, 1997.
    3. CCWD Comments on Department of the Army Permit Number 199600027, Walter J. Bishop (CCWD) to John Reese (US Army Corps of Engineers), dated June 20, 1996.
    4. CCWD Comments on Temporary Barriers Project in the South Sacramento – San Joaquin River Delta, Greg Gartrell (CCWD) to Karen Schaffer (US Army Corps of Engineers) and Curt Schmutte (DWR), dated April 19, 1996.
    5. CCWD Comments on Temporary Barriers Project in the South Sacramento – San Joaquin River Delta, COE Public Notice Number 199600027 dated January 31, 1996, Walter J. Bishop (CCWD) to John Reese (US Army Corps of Engineers), dated February 23, 1996.